

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-BB

RIO CHAMA STREAM SYSTEM

Section 5, Rio Gallina

**NOTICE OF PROPOSED
PARTIAL FINAL JUDGMENT AND DECREE ON
SURFACE WATER IRRIGATION RIGHTS IN
SECTION 5 OF THE RIO CHAMA STREAM SYSTEM**

Parties of record in this cause in Section 5 of the Rio Chama Stream System (Rio Gallina) are notified that the State of New Mexico has prepared a *Proposed Partial Final Judgment and Decree on Surface Water Rights in Section 5 of the Rio Chama Stream System* (“Proposed Decree”) to be filed in the United States District Court. Orders adjudicating the water rights of defendants in Section 5 for surface water irrigation uses, as against the State of New Mexico, have previously been entered for all subfiles in this section. An *inter se* proceeding in Section 5 is required to provide all persons with water rights in Section 5 the opportunity to file objections to the adjudication of the water rights of other persons in these subfiles. This process will lead to the entry of a Partial Final Judgment and Decree that will represent the final adjudication of all claims for surface water irrigation rights in Section 5. This *inter se* proceeding will be the only legal opportunity for persons with water rights in Section 5 to object to the determination of the surface water rights of other water users that are described in the Proposed Decree. The proposed Decree will not determine or affect claims to

groundwater or stock watering uses in Section 5.

HISTORY OF THE PROCEEDINGS

This cause of action is a general adjudication of all water rights in the Rio Chama Stream System, a tributary of the Rio Grande. The adjudication of water rights and the hydrographic survey of the Rio Chama Stream System has been divided into 8 sections. The Court has previously entered a partial final judgment and decree in 4 sections. *See Partial Final Judgment and Decree* filed July 26, 1971 (Section 1) (Doc. 1778); *Partial Final Decree Rio El Rito Stream System* filed June 25, 1973 (Section 4) (Doc. 2394); *Partial Final Judgment and Decree Cañones & Polvadera Stream System* filed February 6, 1976 (Section 6) (Doc. 2862); *Final Decree* filed August 7, 1969 (Section 8) (originally filed in State Court on June 1, 1962) (Doc. 49). The Office of the State Engineer completed its hydrographic survey of surface water irrigation uses in Section 5 of the Rio Chama Stream System in 2000 and the State of New Mexico commenced the adjudication of water rights in this section immediately thereafter. *See Notice by State of New Mexico of Filing the Rio Chama Stream System, Rio Gallina Section, Amended Hydrographic Survey* filed January 27, 2000 (Doc. 5878).

The adjudication of the elements of water rights in individual subfiles in Section 5 for surface water irrigation uses was completed by 2007, with the exception of the determination of priority dates and irrigation water requirements. On April 10, 2008, the Court entered its *Order Making Final Determination of Priority Dates and Irrigation Water Requirements in Section 5 of the Rio Chama Stream System, Rio Gallina* (Doc. 9167). The Court's determination of priority dates and irrigation water requirements in Section 5 is binding on all claimants, known and unknown, diverting and using surface water in Section 5. Claimants in Section 5 are now provided with an opportunity to file *inter*

se objections to the remaining water rights elements in subfile orders entered in Section 5, such as the location and amount of irrigated acreage.

INSTRUCTIONS

If you have water rights in Section 5 that may be affected by any of the provisions of the Proposed Decree, you have the right to file *inter se* objections and offer evidence to the Court in support of those objections. Section 5 includes the watershed of the Rio Gallina, a tributary of the Rio Chama. The Court's previous determination of priority dates and irrigation water requirements, by Order filed April 10, 2008, is binding on all claimants, known and unknown, diverting and using surface water in Section 5. **Persons using surface water in Section 5 cannot object to the determination of priority dates and irrigation water requirements of the surface water irrigation rights described in the Proposed Decree. In addition, persons in Section 5 may not file objections to the previous determination of their own surface water irrigation rights.**

Copies of the Proposed Decree with an Addendum that summarizes the water rights adjudicated and decreed therein, and hydrographic survey maps showing the location of all tracts described in the decree, are available for inspection at the Cuba Public Library and the Office of the Rio Arriba County Clerk in Tierra Amarilla and in Española. Copies are also available for inspection at the Federal District Court in Santa Fe and in Albuquerque, at the UNM School of Law, and at the Office of the State Engineer at the following addresses:

Office of the Clerk
United States District Court
106 South Federal Place
Santa Fe, New Mexico

Office of the Clerk
United States District Court
333 Lomas Blvd. NW

Albuquerque, New Mexico

Joe M Stell Ombudsman Program at Utton Center
UNM School of Law
1117 Stanford NE Rm. 1216
Albuquerque, New Mexico

Office of the State Engineer
Water Resource Allocation Program
Bataan Memorial Building, Rm. 102
Santa Fe, New Mexico

The Proposed Decree (without the Addendum) is also available on the Office of the State Engineer's website (www.ose.state.nm.us).

If you do not wish to object to the determination of water rights of other individuals, as described in the Proposed Decree, you do not need to take any further action. If objections are filed by any persons, you may participate in the proceedings to resolve those objections as described below. If no objections are filed with the Court, you will be bound by the provisions of the Proposed Decree.

HOW TO FILE AN OBJECTION

If you wish to object, you or your attorney must file an objection with the United States District Court of New Mexico. Objections must be filed in person or by mail to be received by the Court no later than **March 1, 2010**, at the following address:

United States District Court Clerk
106 South Federal Place
Santa Fe, New Mexico 87501.

Inter se objections must be filed in accordance with the United States District Court of New Mexico Local Rule 5. All objections must have a caption identifying the Case and Case number (69cv07941-BB). The objection must contain the subfile number of the water right objected to, identify the defendant associated with that water right, provide a brief explanation of the reason for

the objection, describe your own water rights in Section 5, and be signed by the person making the objection. Blank forms (entitled “*Inter Se* Objection to Surface Water Irrigation Rights”) that may be used for this purpose will be available to the public with the Proposed Decree at the locations described above. A copy of the *Inter Se* Objection form is also included with this notice.

If you timely file an *inter se* objection the Court will notify you of a mandatory scheduling and pretrial conference, where you will learn how objections will be heard by the Court. Further procedures for hearing objections to the Proposed Decree will be determined at the conference. This will be your only opportunity to object to the determination of surface water rights described in the Proposed Decree.

HOW TO PARTICIPATE IN *INTER SE* PROCEEDINGS

If you have water rights in Section 5, you may participate in the proceedings to resolve *inter se* objections whether or not you file an *inter se* objection. If *inter se* objections are timely filed, the State will prepare a report that summarizes all objections and make the report available for public inspection at the locations described above by **April 5, 2010**. Persons that elect to participate in the proceedings to resolve *inter se* objections must file a notice of intent to participate with the Court no later than **May 17, 2010**. Blank forms (entitled “Notice of Intent to Participate in *Inter Se* Proceedings”) that may be used for this purpose will be available with the report that summarizes *inter se* objections. **All persons having water rights in Section 5 will be bound by the outcome of the proceedings to resolve *inter se* objections.**

FOR ADDITIONAL INFORMATION

For additional information regarding this Notice or the Proposed Decree, you may call or

write any of the following persons:

Edward G. Newville
Special Assistant Attorney General
Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87502
(505) 867-7444

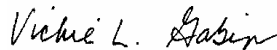
Mary E. Humphrey, Esq.
Attorney for Gallina – Capulin Acequia Association and Section 5 Acequias
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(575) 758-2203

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BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

Recommended for Approval:



SPECIAL MASTER VICKIE L. GABIN